

**TAX INCREMENT FINANCING AND SMART GROWTH:
POLICY OPTIONS FOR MARYLAND**

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Redevelopment Economics

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EXECUTIVE SUMMARY

Smart Growth principles call for growth within existing communities, creating vibrant new places that offer alternatives to car-dependency by maximizing walkability, mixing uses, and providing easy access to jobs and transit, where possible. Tax Increment Financing (TIF) is one of the principal mechanisms that developers have used to finance this kind of redevelopment. As the scale of these redevelopment projects grows, the likelihood that TIF will be employed increases exponentially. TIF is one of the best mechanisms for closing the sizable gaps that usually result from the complexity of site assembly, cleanup, and site preparation of ambitious community redevelopment projects.

TIF in Maryland is essentially place-neutral, a blunt instrument that can be used to assist in building infrastructure for any kind of development project without regard to the states smart growth objectives. This paper explores ways to strengthen TIF's role in serving the smart growth objectives. State-facilitated tax increment financing is an emerging area for financial incentives, and Maryland can be a leader in defining a smart growth and revitalization strategy for this tool.

The analysis undertaken here is a limited exploration of issues and opportunities to further smart growth through TIF modifications that are inspired by how other states have used, modified, and supplemented TIF. As such, this analysis is neither exhaustive nor definitive; rather it is suggestive of potential future directions which will require more detailed follow-up and evaluation before implementation measures are undertaken.

Recommendations for Maryland include:

A. *Fine-tuning TIF Mechanics:*

- a. Allow operations and maintenance of public infrastructure as an allowable expense in TOD Areas. This change encourages transit-oriented development (TOD) by providing a mechanism to cover likely operating deficits of station area garages.
- b. Establish flexible arrangements for funding special benefits districts from the TIF. This change allows a TIF district to capture area value increases and channel the proceeds to a special benefits district.
- c. Allow the assessment base to be adjusted downward to account for cleanup costs. This aids project feasibility for brownfield sites.
- d. Allow Publicly Owned Sites to Use "0" as the Base. This clarification confirms current practice and creates a larger increment, for example, for conversion of state-owned surface parking lots to structured parking.
- e. Make better use of pay-as-you-go TIF options. Localities should offer simplified pay-as-you-go options – alternatives to (currently) expensive and difficult bond market financing – for desirable smaller scale projects where borrowing is potentially avoidable. Examples might include brownfields and preservation projects that involve less than \$2,000,000 as the financing gap.

- f. Clarifying that parking limited to tenants and condominium owners is an allowable expense. The statute should be clarified so that parking that is limited to tenants and condominium owners (businesses or residents) may also be financed through TIF.

B. *Allow TIF Expenditures Beyond Public Infrastructure*

1. Allow the TIF to be used for general redevelopment expenditures. If the project meets certain smart growth-related objectives related to density, mixing uses, and access to transit, allow the TIF to subsidize the project. (This is the broadest community revitalization option available – more narrow options follow).
2. Allow preservation-related expenditures. This could include façade rehabilitation, “eligible rehabilitation expenditures” (vis-à-vis the historic tax credit program), or, more broadly, “building rehabilitation” as eligible TIF expenditures.
3. Clarify eligibility of brownfields and site preparation expenditures. Define the term “site removal” to include site testing, remediation, demolition, and site preparation; and clarify that such expenditures can be undertaken on private land.
Recommended follow-up – explore with brownfields groups.
4. Encourage mixed income redevelopment projects by allowing expenditures related to building/rehabilitating affordable housing. Baltimore City’s language related to affordable housing and abandoned property should be considered for the general state enabling statute. Further define abandoned property to include brownfield sites.

C. *Bond Market Access and Credit Enhancement Mechanisms for Transformative Projects.* Define a set of criteria to determine “transformative” TIF projects, consistent with smart growth principles, addressing blight or economic distress, and requiring a determination that the project will contribute to “net new” economic and fiscal growth.

For smart growth projects, generally (not just “transformative projects”)

1. As a first step, allow MEDCO to act as a conduit to the bond market for projects that contribute to smart growth objectives and for which there are not other readily available mechanisms to access the bond market.

Consider ways to “credit enhance” transformative projects through one or more of the following mechanisms:”

1. Offer a “moral obligation” commitment. Model a credit enhancement based on Kentucky’s “TIF Loan Support Program.”
2. Pledge of certain state revenues as security. Pledge would not be cash in the deal, but would provide extra security for the TIF.
3. Use current Maryland programs as partial guarantees to back the local TIFs. This approach may require administrative or statutory reforms as the Maryland Economic Development Assistance Authority and Fund (MEDAFF) is not a guarantee program; the Maryland Industrial Development Financing Authority (MIDFA) can be used for guarantees but is not currently used for assistance to developers.

4. Develop a new TIF guarantee program. Consider a new program modeled after the Pennsylvania or Connecticut TIF guarantee programs.
- D. ***Bringing State Revenues into Transformative TIF Projects.*** Consider ways to supplement local TIF commitments with dedicated state tax revenues, dependent on demonstration that the project will generate “net new” state revenues that exceed the commitment of funds:
- a. Apply the BRAC principle (the state matching local TIF contributions) to assist transformative projects.
 - b. Dedicate certain state tax revenues to match local commitments. Using the Kentucky model, a number of state revenues would be counted toward the TIF if the project can be demonstrated to represent “net new” economic and fiscal growth.
- E. ***Revolving Loan Funds (RLF) and other Incentives that could Supplement TIF***
1. Establish an RLF to function as a partial alternative to bond market financing. Modeled after Michigan’s brownfields-related loans, DBED and Maryland DHCD should evaluate their financing vehicles and create, possibly on a pilot basis, a loan program designed to help finance TIF projects that meet certain state criteria.
 2. Establish a “TOD Coordinator for Affordable Housing” at MD DHCD. The liaison staff would work with developers to support affordable housing components of TOD projects.
- F. ***Conversion of Smart Growth-Related Property Tax Credits to TIF***
- a. Create a statutory “Opt out” mechanism so that current post development property tax credits can be converted to TIF. In the current financial climate upfront funding is the key and back-end property tax credits (historic preservation, brownfields, enterprise zones) need to be structured to enable conversion to TIF. A statutory “opt out” mechanism that is binding on subsequent owners would facilitate the inclusion of foregone post-development property tax credits in the TIF.
 - b. Examine the possibility of creating a simplified TIF process if the TIF is based solely on these as-of-right credits. If the developer elects to forego these as-of-right credits and if the TIF is based solely on these as-of-right credits, state and local review processes should be minimal.
- G. ***Restrict Infrastructure TIFs to PFAs and Restrict “Enhanced TIF Projects” to Revitalization Areas.*** “Enhanced TIF projects” would be ones that either use new authority related to TIF for project subsidy (B-1, above) or involve state funding, dedicated taxes, or credit enhancements.
1. Consider restricting currently authorized infrastructure TIFs to PFAs. Assure that TIF is not used to by-pass PFA policy.
 2. The “Enhanced TIF projects” should serve smart growth/community redevelopment objectives and greenfields development should be restricted. Criteria should be considered for “enhanced TIFs,” as follows:

- TIF priority areas/sites should have a prevalence of blight, contamination, or significant under-utilization of land;
- TIF priority areas/sites should be in distressed areas, TOD areas, community revitalization areas, or enterprise zones;
- Use of funds on sites that are previously undeveloped greenfields or farms should be prohibited;
- TIF redevelopment plans should be consistent with smart growth principles – density, mixing uses, walkable, and transit-oriented communities; and
- Retail TIFs should be limited to locations in distressed communities or as the retail portion of a mixed use development.

Recommended Follow-Up

We recommend follow-up to this report in order to broaden input and refine the concepts, as follows:

1. Seek Broader Input – input to date has included three counties, three developers, and about ten legal and finance experts. Input needs to be broadened particularly for:
 - County and municipal representatives;
 - Preservation and brownfields interests;
 - Further consultation with legal and finance experts to hone proposals.

2. Explore Issues in Greater Depth - Further Develop Certain Proposals and Test for Feasibility:
 - For “transformative” and high impact smart growth projects:
 - Develop a proposal for the criteria to be used in determining the kinds of projects to be assisted;
 - Rank the varying options for an expanded state role in credit enhancement, guarantees, “moral obligation” guarantees, and/or dedication of state revenues. Evaluate options relative to cost-effectiveness and fiscal impact.
 - Critically evaluate the mechanisms that states use to determine whether a project has a “net positive impact” on the economy and the state treasury.
 - Refine “fine-tuning” recommendations to create specific proposals (e.g. develop recommended language to clarify that cleanup and site preparation are eligible expenditures);
 - Refine recommendations related to expanding allowable uses of funds -- specifically explore and develop proposals for allowing general redevelopment, preservation-related expenditures, and/or affordable housing;

- Further define the issues in the relationship between community benefits districts, special assessment districts, and TIF districts. Discuss with State Center stakeholders;
- Explore mechanisms to convert post-development property tax credits to TIF or upfront financing; examine the requirements and timing issues for each post-development credit and how that affects the ability to monetize;
- Explore relationships between TIF and other MD DBED and DHCD financial incentives – identify if and how any existing incentives can be matched up with TIF, particularly with respect to guarantees and loan sources that might be alternatives to bond market financing;
- Work with MD HDCD to identify resources and define a process for greater inclusion of affordable housing in TIF and TOD projects;
- Explore land bank applications of TIF with the Baltimore Housing Department; and
- Further consider “Area TIFs”:
 - Further examine how other states have linked TIF authority to state authorized quasi-public economic development corporations and compare to Maryland.
 - Discuss options with quasi-public entities.

1.0 BACKGROUND

This report was prepared at the request of the Maryland Sustainable Growth Commission and funded by the Maryland Department of Transportation. Maryland’s general approach to smart growth was crafted in 1997 with the passage of legislation that guided state infrastructure investments to Priority Funding Areas and established the state brownfields program.

A logical next step for Smart Growth in Maryland is to see if there are ways to adjust certain development incentives, in this case tax increment financing, in order to contribute to smart growth and sustainable development objectives.

This report is a companion to a report prepared by Partners for Economic Solutions (PES), entitled, “Introduction to Tax Increment Financing.” This report takes the PES report to the next step and outlines policy options for Maryland that should be further examined in order to strengthen the relationship between TIF and smart growth objectives.

The following is the PES report table of contents, provided here so that readers will understand the difference between the two reports and be guided to the appropriate document:

<ul style="list-style-type: none"> What is Tax Increment Financing? Eligible Uses in Maryland TIF-Eligible Taxes in Maryland When and Where is TIF Used? “Project” TIFs “Area” TIFs Blighted Areas What are the Steps in TIF? What are the Benefits of TIF? Variations <ul style="list-style-type: none"> Other Tax Revenues Taxes Devote Pay-As-You-Go Funding Developer Funding Eligible Uses Credit Enhancement TIF Experience <ul style="list-style-type: none"> National Harbor TIF East Baltimore Redevelopment Plan Park Place Mondawmin Mall Renovation 	<ul style="list-style-type: none"> Frequently Asked Questions How risky are TIFs? How can jurisdictions mitigate risks? Does TIF mean new taxes? Is this a tax break for the property owner/developer? Does the State impose TIFs on a local government? Does TIF divert taxes from other government priorities? Do TIF bonds put the State or local government at risk? Do TIF bonds affect the bond cap and prevent issuance of other capital bonds? Do TIF bonds affect a jurisdiction’s General Obligation bond rating? Does TIF give competitive businesses and developments an unfair advantage at taxpayer expense?
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It is important to note that the recommendations are “suggestive” of potential future directions, not a definitive guide. The primary orientation has been to seek inspiration from other states – to inventory how other states have structured and supplemented TIF to serve smart growth objectives. This has resulted in a laundry list of concepts, which now need to be further evaluated and refined to develop a specific plan for Maryland.

2.0 INTRODUCTION

Richard Florida has advanced the premise that the communities that will be the economic winners in the 21st century will be those that succeed in attracting and cultivating “the creative class.” He further suggests that the chief way for communities to capture the creative class and the consequent business investment is by establishing vibrant diverse mixed use walkable “new urbanist” communities. Mr. Florida and his many adherents would therefore argue that it is imperative for states to support this model in their communities, not just because smart growth improves the environment and other quality of life factors, but also because the vibrant communities that are created by the smart growth model are critical to new investment, job growth, and economic development.

Around the country and in the State of Maryland, tax increment financing has become the predominant public financing mechanism that is revitalizing communities according to this new model. By examining the intersection of tax increment financing and smart growth, the State of Maryland is considering steps that it needs to take to succeed in the 21st century.

TIF in Maryland has heretofore been considered a local development tool -- local property taxes, with a few minor exceptions, are the only allowable revenues that can be included in TIF projects. The state role has been minor – primarily acting as a conduit to the bond market.

The thrust of this report is to suggest that Maryland’s approach to TIF needs to be re-evaluated. Given that other sources of gap financing – federal, state, and local – are likely to remain in short supply, TIF should be examined for opportunities to enhance the connection between TIF and smart growth. There is an opportunity to be more strategic with TIF investments and to supplement local government commitments with carefully constructed state commitments in support of vibrant new walkable mixed use communities.

State-facilitated tax increment financing is an emerging area for financial incentives, and Maryland can be a leader in defining a smart growth and revitalization strategy for this tool. Molding and supplementing the most powerful tool in the economic development tool shed could lead to increased productivity and cost-effectiveness of public investments, while helping to create more sustainable development patterns.

3.0 MARYLAND’S SMART GROWTH-COMMUNITY REVITALIZATION INCENTIVES

Maryland’s strong suit in promoting smart growth is the commitment to guide infrastructure and other state spending to Priority Funding Areas (PFAs). However, Maryland’s community

redevelopment incentives are modest by the standard of most northeast, mid-east, and midwest states. Maryland's incentives are primarily:

- Historic Tax Credit (\$7.7 million)
- Main Streets
- Brownfields Revitalization Incentive Program
- Community Legacy (\$4.2 million)
- Neighborhood Business Works (4.2 million)
- TOD initiatives
- Local Government Infrastructure Finance Program (subsidized access to the municipal bond markets)

The states that have made major financial commitments to smart growth and community revitalization are ones that have adopted one or more of the following approaches:

1. Substantial brownfields cleanup and redevelopment income tax credits – New York, Michigan, Missouri, New Jersey, and Massachusetts;
2. Historic Tax Credit Programs that are either fully automatic or have high overall program caps: Virginia, Massachusetts, Missouri, Michigan, Maine, North Carolina, and Connecticut;
3. Transit-oriented development income tax credit program – New Jersey;
4. Bond funded brownfield, downtown, waterfront, and/or historic preservation grant and loan programs that provide “beyond-general-fund” commitments: Michigan, Ohio, Pennsylvania, New York; Pennsylvania, and Massachusetts.
5. State-facilitated tax increment financing: Connecticut, Michigan, Kentucky, Missouri, and Pennsylvania.

Maryland cannot currently be counted as among these leaders. However, the latter category (state-facilitated tax increment financing) may represent a particular opportunity for Maryland to rejoin the smart growth leaders.

4.0 MARYLAND'S USE OF TIF AND ITS RELATIONSHIP TO SMART GROWTH

4.1 TIF Projects and Smart Growth in Maryland

The Partners for Economic Solutions report includes a table of Maryland TIF projects. Here we categorize these projects according to typologies which start to reveal the relationship between TIF and smart growth.

Large-scale Urban Mixed Use/TOD – Large-scale urban mixed use and TOD projects tend to use TIF as the gap-closer because TIF is the only incentive of sufficient magnitude to cover the considerable infrastructure and site preparation needs of large-scale redevelopment. In Maryland at least five large scale urban redevelopment projects have used TIF as a principal financing mechanism, and seven more are on the drawing boards.

<p>Complete and Under Construction:</p> <ul style="list-style-type: none"> ○ National Harbor ○ East Baltimore Development, Inc ○ Annapolis Town Center ○ Park Place Annapolis ○ Clipper Mill 	<p>Planned:</p> <ul style="list-style-type: none"> ○ White Flint ○ Greenbelt Metro ○ State Center ○ Westport Waterfront ○ Owings Mills TOD ○ Harbor Point ○ Savage Town Center
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From a smart growth perspective, one has to be impressed at the magnitude of the potential to capture growth in mixed use walkable and transit-oriented communities. Just the projects listed above have very substantial potential to capture growth:

- 22,700 households
- 18.2 million square feet of commercial space
- 54,700 jobs

Aside from the above projects there are a large number of mixed use/TOD projects that are in earlier stages of planning and development:

- MARC Stations: Odenton and Laurel;
- Washington Metro Stations: New Carrollton, Wheaton, Twinbrook, Rockville Town Center, Naylor Road, West Hyattsville; College Park, Largo, Prince George’s Plaza, Morgan Boulevard, Glenmont;
- Baltimore Metro Stations: Reisterstown Plaza Metro, Rogers Avenue Metro
- Baltimore Light Rail: Redline related development.

It can be assumed that many of these projects will require TIF in order to finance the infrastructure, parking garages, and site preparation needed to accommodate more dense TOD development.

Business/Industrial Parks – Anne Arundel County has used TIF to fund infrastructure for two business parks – National Business Park (greenfield site) and Nursery Road (brownfields site) Allegany County is proposing a TIF for the Route 32 Development District.

Retail Revitalization – Baltimore City, Laurel, and Salisbury used a TIF to finance the upgrading and renovation of Belvedere Square, Mondawmin Mall, Laurel Mall, and Salisbury Mall, respectively.

New Retail – Anne Arundel and Allegany County financed infrastructure for Arundel Mills (greenfield site) and Shades Lane, respectively.

New Residential – Charles County and the City of Salisbury used TIF for infrastructure for Swan Point and the Northeast Collector, respectively.

BRAC TIFs –BRAC areas which may evolve into BRAC TIFs include Westport, Savage, Frederick East Side, Laurel, Aberdeen, and Prince George’s County.

Parks and Open Space – Baltimore Downtown Partnership recently announced a plan to improve downtown parks and open space, and TIF is one of the financing mechanisms they are exploring.

Greenfields - It might be noted that Swan Point, Arundel Mills, National Business Park, and the Northeast Collector were all greenfields sites, but each project was in (or was added into) the Priority Funding Areas. Some of the BRAC areas also include greenfield sites.

Area TIFs – At this point TIF in Maryland is almost exclusively “project TIFs,” not “Area TIFs.” The only Area TIF project that has progressed to the point of TIF issuance is EBDI in East Baltimore;

4.2 Maryland TIF Compared to Other States

TIF in Maryland could be characterized as a “blunt instrument” – it is essentially neutral with respect to the State’s smart growth objectives. This conclusion comes from three observations:

1. In Maryland TIF is universally available and unrestricted with respect to geography, blighting conditions, areas of economic distress, Priority Funding Areas, or any other state objective.
2. The Maryland TIF law is fairly conservative, in comparison to many states, with respect to the allowable uses of TIF funds.
3. The State of Maryland’s role in assisting desirable TIF projects is minimal in comparison to many other states that have designed loans, guarantees, and shared revenues in order to facilitate desirable TIF projects.

The issues below represent possible new directions - ways that Maryland could adjust TIF and TIF-related incentives in order to further smart growth objectives.

5.0 TIF ENABLING LEGISLATION – POTENTIAL ADJUSTMENTS FOR SMART GROWTH

5.1 Geographic Targeting for Blight and Avoidance of Greenfields Development

Maryland’s enabling statute is unrestricted with respect to blighting conditions, indicators of economic distress or any other geographic limitation. Many states restrict TIF to addressing blighting conditions, or restrict it to land that has been previously developed and/or located in areas of economic distress or enterprise zones. Some states disallow TIF for retail development, unless it is located in a distressed area or meets strict blight criteria. (See Appendix 1 for a sampling of language related to geographic criteria.)

Several Maryland TIF projects, including Arundel Mills, have been greenfield projects, although each has been in or added to the Priority Funding Areas.

As long as TIF in Maryland is limited to funding infrastructure, there is less of a rationale for introducing geographic targeting, blight, and distressed area criteria; however, the State should consider limitations to PFAs in order to make sure that localities are not using TIF as an alternative way to finance sprawl outside of PFAs.¹

Greater Targeting for “Enhanced TIFs.” Blight, distressed area, and smart growth criteria should be considered if Maryland implements either of two changes suggested by the discussion below to create enhanced TIF programs.

1. Broadening TIF-eligible expenditures, so that TIF can provide project subsidy.
2. A broader state role in assisting or providing “credit enhancements” for smart growth and “transformative” community revitalization TIF projects.

Projects assisted through either of these enhanced TIF mechanisms should have to meet a higher standard related to public benefit. Criteria should be considered for “enhanced TIFs,” as follows:

- TIF areas/sites should have a prevalence of blight, contamination, or significant under-utilization of land;²
- TIF areas/sites should be in distressed areas or where local economies need renewal, including TOD areas, community revitalization areas, or enterprise zones;
- Use of funds on sites that are previously undeveloped greenfields or farms should be prohibited;
- TIF redevelopment plans should be consistent with smart growth principles – density, mixing uses, walkable, and transit-oriented communities; and
- Retail TIFs should be limited to locations in distressed communities or as the retail portion of a mixed use development.

Appendix 1 includes blight and distress-related TIF criteria from a number of other states.

5.2 Expanding Eligible Uses of Funds to Reflect Smart Growth Objectives

Other States Allow Redevelopment Costs - Rather than just assisting infrastructure, some states (estimated at one-third of all states) allow assistance for virtually any redevelopment expense, in effect allowing TIF to produce project subsidy.³ This approach has particular merit, currently, because infrastructure funding is more available than redevelopment subsidy.

The following example illustrates how one redevelopment project in Ohio is moving ahead, largely because TIF in Ohio can be used for general redevelopment costs (project subsidy).

¹ Note that Howard, Cecil, and Harford Counties adopted internal guidelines for TIF that restrict projects to PFAs.

² A legal review is recommended on these points to make sure that new language does not negate the possibility of redevelopment typical of older suburbs that may not meet a “Blight” definition.

³ For example, Indiana allows “Site improvements” see:

<http://www.bsue.edu/webapps2/directory/cecd/detail.asp?ID=227>



An example is the recent re-working of the financing for a large scale redevelopment project in Cleveland (Cleveland Flats East Bank). \$30 million in infrastructure funding, which was originally planned to be funded through TIF, was switched to Recovery Zone funding, and the TIF was re-worked to provide project subsidy, which was only possible because Ohio allows TIF for redevelopment expenses. The mechanism is a \$30 million loan from the federal HUD 108 Program with re-payment from TIF revenues.⁴

Brownfields-Related Costs. Many other states do not go as far as Ohio but do allow certain kinds of site preparation and remediation. According to a fact sheet prepared by the Council of Development Agencies (CDA),⁵ twenty states allow remediation as an allowable expense. Texas adds the additional clarification that remediation may take place on *private* as well as public land.

Wisconsin also clarifies that asbestos remediation and underground storage tank removal are eligible expenses.⁶

TOD and Transit Issues - Maine adopted an expansive definition of TOD and transit-related expenses as TIF eligible, including: transit vehicles; transit conveyance facilities; transit-related facilities such as bike racks, bicycle lanes, signs, benches, and pedestrian improvements; and operating costs of the new transit facility.⁷ New York and Connecticut have been reported to have similarly expansive definitions of transit-related eligible expenses and New York City is using TIF as a funding source for a subway extension.

Preservation-based Revitalization. The Texas TIF statute allows “façade preservation” as an eligible expense, thus raising the issue of using TIF for historic preservation. The Washington State statute also allows preservation related expenditures. A specific concern in Maryland is that funding cutbacks in the state historic tax credit program have slowed historic preservation projects that were once the cornerstone of smart growth and community revitalization.

⁴ Source: http://www.cleveland.com/business/index.ssf/2010/12/clevelands_flats_east_bank_pro.html and the Cleveland Department of Economic Development.

⁵See: [http://www.cdfa.net/cdfa/cdfaweb.nsf/fbaad5956b2928b086256efa005c5f78/9cab5f1e5d4d038625714d00572650/\\$FILE/TIF%20for%20brownfields.pdf](http://www.cdfa.net/cdfa/cdfaweb.nsf/fbaad5956b2928b086256efa005c5f78/9cab5f1e5d4d038625714d00572650/$FILE/TIF%20for%20brownfields.pdf)

⁶ See: <http://www.dor.state.wi.us/pubs/slf/tif/ercomp.pdf>

⁷ See: http://www.mainelegislature.org/legis/bills/bills_124th/billpdfs/SP051103.pdf

Preservation projects may not require enough infrastructure investment to justify a TIF; however, a more expansive definition of eligible expenditures would mean that TIF could work for preservation projects, partially replacing the historic tax credit as a means of encouraging preservation-based community revitalization.

Recommendations for Expanding Allowable Uses in Maryland – Maryland should consider the following:

- Allow the TIF to be used for general redevelopment expenditures if the project meets certain smart growth related objectives related to community revitalization, density, mixing uses, and access to transit. (This is the broadest option available – more narrow options follow);
- Allow façade rehabilitation (Kentucky), “eligible rehabilitation expenditures” (vis-à-vis the historic tax credit program), or, more broadly, “building rehabilitation” as eligible TIF expenditures;
- Define the term “site removal” to include site testing, remediation, demolition, and site preparation; and clarify that such expenditures can be undertaken on private land;
- Clarify that operation and maintenance expenses in TOD areas are eligible for TIF (see discussion [below](#));
- Consider further expansion of allowable uses in relation to TOD (reference Maine);
- Encourage mixed income redevelopment projects by allowing any participating jurisdiction to use the Baltimore City language related to affordable housing and abandoned property.
- Further define “abandoned property” to include brownfield sites.

5.3 Fine-Tuning and TIF Mechanics

Less sweeping, but significant changes should also be considered in order to fine-tune the TIF enabling legislation and adjust administrative practices to facilitate certain kinds of smart growth projects.

- ***Operations and Maintenance for Public Infrastructure in TOD Areas.*** The General Assembly in 2008 adopted an amendment to allow TOD-related special assessment districts to fund operations and maintenance for public infrastructure in TOD Areas. This change will particularly assist projects where the TIF is funding a parking garage to replace surface parking, but the garage may have to operate at a deficit. An additional amendment should also clarify that TIF revenues can assist operations and maintenance for public infrastructure in TOD Areas.
- ***Value Capture, Special Benefit Districts, and Special Assessment Districts.*** In Maryland the usual case has been that the Special Assessment Districts have corresponded to the TIF district, functioning to back the TIF bonds and shift default risk from the locality to the developer. In Maryland there is also interest in the establishment and funding of special benefits districts to assist the immediate neighbors of the project

with desirable public improvements and to retain affordable housing. This leads toward new scenarios for the relationship between the TIF district and the special assessment district. For example, there may need to be a “primary” and “secondary” TIF zone. The primary zone would correspond to the project (and to the special assessment district), serving to fund the project. The secondary TIF zone might correspond to a larger benefits district and would capture property value increases in this larger area (one-half mile). The secondary TIF zone could fund the special benefits district, as well as provide extra security for the primary TIF zone.

This issue may require in-depth follow-up to examine statutory and practical issues.

- ***Adjusting the Base for Cleanup Costs*** – Minnesota, through its Hazardous Substance Sub-districts, allows the locality to adjust (lower) the assessable base by cleanup costs, with the result that the increment (and the potential subsidy) increases.⁸ This increased increment creates an interesting option for sites where development may be years off. A tax increment can be generated without any vertical development – the increment is the difference between the adjusted base (adjusted for cleanup costs) and the previous base. A Minnesota Division of Revenue report indicated that in 2003 there were fifteen Minnesota TIF Districts that are using the Hazardous Substance Subdistrict authority. This minor change could be a significant gain for brownfields projects.
- ***Allowing Publicly Owned Sites to Use “0” as the Base.*** Wisconsin allows localities using TIF on a publicly-owned brownfields site to use “0” as the base, thus increasing the potential subsidy. “0” base has been done in Maryland but the statute is subject to interpretation on this point, and clarification would be beneficial. TOD projects, in particular, often involve state-owned parking lots and using “0” as the base would help facilitate numerous planned TOD projects that have significant gaps.
- ***Clarifying that Parking Limited to Tenants and Condominium Owners is an Allowable Expense.*** The Maryland statute allows use of TIF for “parking” but other sections can be interpreted as limiting that provision to parking that is always available to the public. The statute should be clarified so that parking that is limited to tenants and condominium owners (businesses or residents) may also be financed through TIF.
- ***Pay-as-you go TIF*** – Pay-as-you-go TIFs are not explicitly authorized by the Maryland statute, but have been approved in several instances. The Pay-go option may be more attractive, currently, because of the high cost and difficult terms demanded by the bond market. Pay-as-you-go TIFs are ideally suited for cleanup of modestly contaminated brownfield sites – the developer simply fronts the cost of remediation and then is paid back over time through a portion of the tax increment. Wisconsin outlines how this can work for brownfields in their “Environmental Remediation TIF” program.

Further, if a an outcome of this analysis is that a wider range of redevelopment expenses become TIF-eligible, one could foresee pay-as-you-go TIF working for a variety of smaller projects that would not have been considered for TIF before, either because they did not have enough infrastructure need or because the size of the project did not justify the high cost of going to the bond market.

⁸ See: <http://www.house.leg.state.mn.us/hrd/issinfo/hazsdist.htm>

Pay-as-you-go TIFs may not need statutory changes, but localities should consider ways to institutionalize pay-as-you-go mechanisms, incorporating this option into their repertoire of incentives, particularly for brownfield sites.

- ***Adapting TIF to Land Banking*** – Michigan (Genesee County, in particular) is the leader in this area. They allow scattered-site TIFs and define land bank properties as brownfields, a designation that has particular significance in Michigan. (Note Michigan’s definition of “brownfields” is very loose and encompasses “greyfields.”) The Baltimore City enabling legislation was amended in 2001 to allow for non-contiguous TIF districts.

A follow-up activity should be to explore whether further change is needed to make TIF a viable tool for land banking.

6.0 STATE PARTICIPATION IN “TRANSFORMATIVE” SMART GROWTH TIF PROJECTS

Maryland should define criteria for “transformative projects” that represent both a high degree of conformance with smart growth objectives, including true economic growth, green development practices, and community revitalization. There are at least two ways this assistance could be organized: credit enhancements and dedication of certain state revenues to supplement local TIFs.

6.1 Credit Enhancements for “Transformative” Smart Growth TIF Projects

Pennsylvania - Pennsylvania’s \$100 million program generally assists smart growth projects; it is limited to \$5 million per project. Pennsylvania’s guarantee program is designed to assist local TIFs that qualify under a strict definition of blight removal. The state’s guarantee, up to \$5 million per project, can serve as an important credit enhancement that can make the difference between a feasible and an infeasible project. TIF proceeds may be used for infrastructure and environmental remediation costs. The state gives priority to brownfields sites as one of several program criteria. The program is funded to provide \$100 million total in guarantees.⁹ The Program also offers to pay locality issuing costs based on need.

Of six funded projects three are downtown mixed use (Harrisburg/Frazer Center, North Versailles/Longview Properties, and Mt. Lebanon/Washington Park), one is a brownfields industrial and mixed use redevelopment (Butler West End Revitalization¹⁰), and two are industrial “development-ready-land-type” projects.

Connecticut’s Brownfields Redevelopment Authority (CBRA). CBRA offers financing for brownfields remediation and site preparation through its parent organization, the Connecticut Development Authority (CDA). CBRA deals are three-party transactions between CBRA, the developer, and the municipality, through the following steps:¹¹

⁹ See: <http://www.pitt.edu/~tif/statepolicytif.htm>

¹⁰ See: <http://finance.boston.com/boston/news/read?GUID=233949>

¹¹ See: http://www.ctcda.com/Landing/Financing_and_Grants/Grants/

1. The municipality pledges a portion of future incremental tax revenues towards the cost of the remediation of a specified site;
2. CBRA converts the city's pledge of future incremental revenues into an upfront cash grant to the developer;
3. The pledged tax revenues re-pay the CBRA grant over a period of years. CBRA takes the risk for non-performance, in effect guaranteeing repayment.

CBRA is essentially taking the place of the bond market, but offering a guarantee, as well as generally better terms, in the interest of getting both the developer and the municipality comfortable with participation.

CBRA is currently listing five completed projects.¹²

Other States - Kentucky backs certain TIFs with “Moral Obligation Bonds,” described below under “[Bringing State Revenues into Transformative TIF Projects.](#)”

Maryland – Maryland does not currently credit enhance or guarantee TIF projects, but MEDCO is empowered to act as a conduit to the bond market for:

- TOD projects, as authorized by 2009 legislation;
- Baltimore City TIF projects, authorized by a change to the City Charter.

Maryland should consider defining a broader role for MEDCO in accessing the bond market for smart growth projects, not just TOD and Baltimore City projects.

Maryland should consider ways to credit enhance transformative smart growth-community revitalization projects that meet state criteria related to mixing uses, establishing walkable or transit-oriented communities, redeveloping brownfields, preserving existing communities, and producing net new economic growth to the state. Explore the following ways that the state could supplement local TIFs for these projects:

- A “moral obligation” commitment (Kentucky);
- Pledging of certain state revenues as extra security for the TIF;
- Using current Maryland programs as partial guarantees to back the local TIFs. This approach may require administrative or statutory reforms as MEDAFF is not a guarantee program; MIDFA can be used for guarantees but is not currently used for assistance to developers.
- Developing a new TIF guarantee program modeled after the Pennsylvania or Connecticut models.

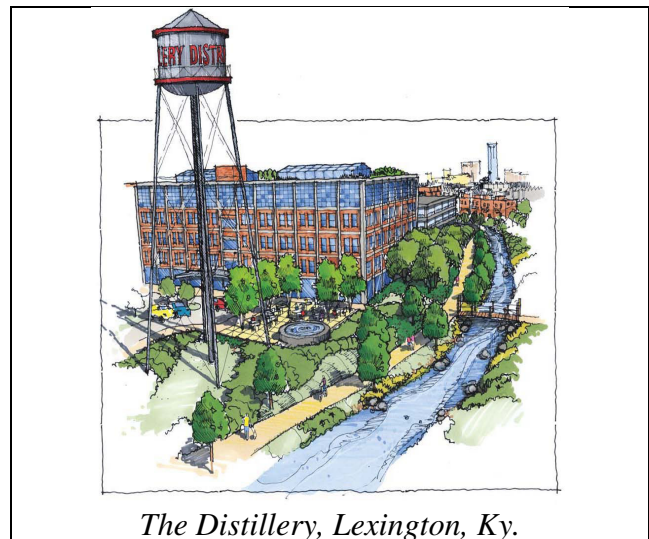
6.2 Bringing State Revenues into Transformative TIF Projects

Several states (including Missouri, Kentucky, Tennessee, Mississippi, Kansas, Indiana, Colorado, and Louisiana) bring certain specified state revenues into the mix for certain kinds of preferred TIF projects.

¹² See: http://www.ctcda.com/Success_Stories/CategoryView.asp?CategoryID=2

Kentucky - In the case of Kentucky, five state revenues can be included in two kinds of TIF projects: “Signature projects” and “Mixed Use Redevelopment in Blighted Urban Areas.” The main difference is that “signature projects” have a higher threshold for minimum investment (\$200 million) and are geographically unrestricted; whereas the mixed use/blight projects have a lower investment threshold (\$20 million) and must meet three of seven criteria related to blight and economic distress. Projects assisted must be mixed use with less than 20 percent retail.¹³ The project must demonstrate a net positive economic and fiscal impact on the state, taking into account the potential adverse effects on other businesses, what is termed “substitute spending.”¹⁴ These signature projects are also eligible for a limited state “moral obligation” guarantee, under the “TIF Loan Support Program,” which makes the bonds more marketable by creating an additional supplemental reserve for payment of the debt service.

One project that was recently approved for state sharing of tax revenues under the “mixed use redevelopment of blighted areas” TIF is “The Distillery District” in Lexington, Kentucky. The \$190 million mixed use redevelopment could garner up \$61 million in state revenues to spur the revitalization of a 26 acre stretch of abandoned industrial lofts on the edge of downtown.¹⁵



Missouri¹⁶ - Under Missouri’s State Supplemental Tax Increment Financing Program an applicant may be approved to receive up to 50% of the net new state sales tax revenue generated in the project area OR up to 50% of the increase in state income tax revenue from net new jobs in the project area. The project must *all* of the following criteria:

- The redevelopment project area must be blighted.
- The redevelopment project area must be located in a CBD or an area of economic distress.
- The zone or blighted area must contain at least one building that is 50 years of age or older.

¹³ See: http://www.thinkkentucky.com/kyedc/pdfs/TIF_FACT_SHEET.pdf

¹⁴ For an example of how Kentucky reviews the economic and fiscal impacts, see: http://media.kentucky.com/smedia/2009/09/24/18/TIFConsultantReport.source.prod_affiliate.79.pdf

¹⁵ See: http://www.smileypete.com/Articles-c-2009-10-29-90242.113117_Lexington_Distillery_District_TIF_Approved_by_State.html

¹⁶ See: [http://ded.mo.gov/bcs/upload/tif\(11-07\).pdf](http://ded.mo.gov/bcs/upload/tif(11-07).pdf)

- The redevelopment project area, over the past 20 years, must have experienced a generally declining population or generally declining property taxes.

State revenues can pay for infrastructure and “rehabilitation, reconstruction or repair or remodeling of existing buildings and fixtures” (another good angle on preservation).

Criteria to evaluate whether to approve an application for state funding include:

- Demonstrating project feasibility and need;
- A positive net state fiscal benefit (deducting all state costs/incentives related to the project).

Indiana. The state authorizes “Certified Technology Parks” to use 100 percent of state income and sales taxes generated by businesses located in technology parks. Funds are used to finance the technical, environmental and capital improvement projects for public use areas within the park.¹⁷

Kansas. The state authorizes “Sales Tax and Revenue” (STAR) TIFs. Ken Hunter with PricewaterhouseCoopers summarizes the Kansas law as follows: “Kansas law limits STAR bond financing to less than 50% of total project costs and requires that such projects offer unique features that will increase tourism, generate significant positive and diverse economic and fiscal impacts, and provide sustainable development over time.” STAR bonds helped finance development related to the NASCAR Kansas Speedway – a hotel, the Nebraska Furniture Mart (employs 1,000 people), a Cabela sporting goods store, and other adjacent retail and entertainment facilities.¹⁸ **Tennessee and Colorado** have similar sharing of state sales taxes to support tourism related TIF projects.

Maryland – The State of Maryland, in an effort to assure that BRAC-related growth could be accommodated, adopted a program whereby the state reimburses localities for 50% of the property taxes devoted to a BRAC-related TIF project for up to 10 years. However, the program is currently limited to \$5 million annually and appropriations have been postponed until projects mature. Under the BRAC-TIF program the state also pledges its portion of property taxes to the TIF.

Maryland could step back into a leadership position among states that support smart growth by adopting state supported tax increment financing for “transformative” projects. While this may seem fiscally irresponsible on the surface, state support can be linked to independent analysis and a determination that the project will generate “net new” state revenues that exceed the commitment of funds.

The state support could take one of several forms:

- The BRAC approach (the state matches local TIF commitments) could be extended to transformative projects;

¹⁷ See: <http://www.in.gov/sboa/files/ctb1202.pdf>

¹⁸ See: <http://www.utcddevelopment.com/case-study.html>

- The Kentucky model, where a number of state revenues would be counted toward the TIF if the project can be demonstrated to represent true economic growth;
- A more modest step toward the state-supported TIF model would be allowing certain state revenues to be used as extra security on desired TIF projects, per the discussion above under “credit enhancements.”

7.0 REVOLVING LOAN FUNDS AND OTHER INCENTIVES THAT COULD SUPPLEMENT TIF

7.1 Revolving Loan Funds Designed to Work with TIF

Michigan has several loan programs that are specifically designed to work with brownfields/TIF projects. Michigan authorizes local Brownfields Redevelopment Authorities to issue TIF debt in order to pay for site preparation and cleanup of brownfields/greyfields sites.¹⁹ The state loan programs operate, in part, to create an alternative financing source relative to the private bond market. The favorable terms (low interest and deferred payments) are ideal for brownfields sites where site prep activities may need to be financed in advance of vertical development. See Appendix 2 for more information.

The federal HUD 108 program often serves as an alternative lending source for TIF/urban redevelopment projects. The HUD Brownfields Economic Development Initiative (BEDI) grant program works as a counterpart to HUD 108, closing gaps with grants for brownfields projects. Baltimore City employed this combination – BEDI, HUD 108, and TIF – in the initial financing for Gateway South.

Maryland. In Maryland the grant counterpart to BEDI would be the Brownfields Revitalization Incentive Program (BRIP), but there is no loan program that currently functions like the Michigan brownfields loan programs or HUD 108.

DBED and Maryland DHCD should evaluate their financing vehicles and create, possibly on a pilot basis, a loan program designed to help finance TIF projects that meet certain state criteria. If this effort is blocked by statutory limitations, amendments should be considered. The RLF program that results from this effort should also function to monetize post development property tax credits – see next section.

7.2 Affordable Housing Incentives and Promoting Mixed Income Redevelopment

Several states (California, Maine, and Utah) require TOD TIF projects to incorporate a percentage of affordable housing.²⁰ Maine designed an “Affordable Housing Tax Increment Financing Program” to encourage localities to expand affordable housing.²¹ Numerous states

¹⁹ Although officially limited to funding “Brownfields,” Michigan’s definition of brownfields encompasses many grayfields projects by virtue of the inclusion of lead paint and asbestos as qualifying factors.

²⁰ Policy Link: <http://www.policylink.org/site/c.1kIXLbMNjRE/b.5137387/k.EB1B/Financing.htm>

²¹ See: <http://www.mainehousing.org/Documents/Brochures/Brochure-AffordableTaxIncrementFinancing.pdf>

allow affordable housing as an eligible use of TIF revenues, i.e TIF can be used to fund private improvements if the redevelopment meets an affordable housing standard..

In Maryland affordable housing improvements are an eligible use of funds only in Baltimore City. In order to promote mixed income redevelopment, consider:

1. TIF enabling legislation should be amended to allow affordable housing improvements as an eligible use of TIF funds, statewide;
2. Maryland DHCD should designate a single staff person as “TOD coordinator” with responsibilities to assist TOD developers with affordable housing incentives.

8.0 CONVERSION OF SMART GROWTH-RELATED PROPERTY TAX CREDITS TO TIF

Maryland has authorized localities to grant property tax credits for brownfields projects, historic preservation projects, enterprise zones, newly constructed dwellings (Baltimore City), and arts and entertainment districts. These incentives have worked reasonably well in the past, but they are of minimal utility when the main financing obstacle is on the front end. Some individual TIF agreements have involved mechanisms for developers to opt out of these credits and instead devote PILOTs or special assessments to the TIF. The legal basis for these “opt out” mechanisms has been described as “on less than solid legal ground,” particularly as they pertain to subsequent property owners.

A follow-up project is recommended to explore:

1. Statutory changes to institutionalize a legal method for the beneficiaries of these credits to “opt out” of the post development credits in return for use of the credit in a TIF, thus producing needed upfront financing.
2. Examine also whether a TIF based solely on these as-of-right credits could be structured with fewer requirements and a more expeditious process, given that these are as-of-right credits.

9.0 AREA TIFS AND REDEVELOPMENT PLAN IMPLEMENTATION

TIF in Maryland has been almost exclusively “project TIFs,” not “Area TIFs.” The only area TIF project that has progressed to the point of TIF issuance is EBDI in East Baltimore. The part of their TIF that was “Area” was a private placement with the Casey Foundation, and has limited applicability to other area TIFs. New Carrollton and Odenton could be planned as area TIFs. Area TIFs have been examined for some distressed areas in Baltimore City but have not progressed to implementation.

Area TIFs are more often pay-as-you-go because of the additional complexity and uncertainty related to juggling multiple development projects with varying time frames and because of the difficulties in establishing a back-up special assessment district that would have to cover numerous individual properties, often single-family homes.

Given that area TIFs are used, with considerable success, in other parts of the country, it is appropriate that this project examine area TIFs for potential models and new approaches that may have applicability to Maryland.

The potential power of an area TIF is illustrated by the City of San Jose, California which designated a significant portion of Silicon Valley as a TIF district in the 1980's. The district produced revenues (about \$90 million annually) beyond anyone's expectations, and the City was able to finance a new downtown arena, children's museum, convention center, repertory theater, a downtown park, and a science museum, all with revenues primarily from the TIF district.²²

A cautionary note comes from Chicago, where about one-third of all properties are in area TIFs, and the City has been criticized for diverting too much tax revenue to TIF districts.

To illustrate the use of area TIFs, the following discussion concentrates on one local project in Dallas and one state program in New Jersey.

9.1 Dallas Area TIF for TOD – the Skillman District

Dallas makes heavy use of area TIFs – they have 17 active TIF districts and most appear to be area TIFs rather than project TIFs.²³ TIF in Texas is a very flexible mechanism, as it can be used as project subsidy, not just infrastructure and site preparation.

The Skillman District is a non-downtown corridor district where TIF is being used to re-shape development patterns to reflect a more dense/mixed use/TOD urban form. At this point the TIF is 100% pay-as-you-go, which works partly because there have been eight development projects which have proceeded without TIF subsidy, and the revenues they have generated comprise 44% of the District's TIF revenue.



District revenues are committed to support: 1) a town center/TOD project, Lake Highlands Town Center, including 20 acres of parks and trails (\$37 million); 2) other corridor public improvements, streetscapes, environmental remediation, site preparation/demolition (\$45 million); 3) school district facility improvements per an agreement with a local

²² See: <http://query.nytimes.com/gst/fullpage.html?res=9D02EFDA163AF936A3575AC0A96F958260>

²³ See: <http://dallas-ecodev.org/incentives/tifs-pids/>

school district (\$5 million); and 4) administration (\$5 million), totaling \$93 million in improvements.

The sources of incremental revenue are: the added value of new construction (44% of the increase), major property transactions including sites under development (15%), and appreciating property values (40%) in the District.²⁴

9.2 States - Area TIFs and State-Authorized Redevelopment Authorities

Several states encourage localities to use TIF, usually area TIFs rather than project TIFs, to implement the plans of state-authorized redevelopment authorities. States included in this group are Florida's Community Redevelopment Agencies;²⁵ California's Redevelopment Agencies,²⁶ and Michigan's Brownfields Redevelopment Authorities, which are detailed in Appendix 2.

Of note for brownfields redevelopment, California's redevelopment agencies have been granted authority under the Polanco Act to enter private property, perform a site assessment, order a cleanup, and, if the cleanup is not implemented according to a prescribed timeframe, the redevelopment agency may carry out the cleanup and seek cost recovery.²⁷ Connecticut's redevelopment agencies have similar powers to enter private property to perform a site assessment.

New Jersey Redevelopment Areas and Revenue Allocation Districts. Redevelopment Areas (defined by blight and including brownfields) are plan implementation mechanisms that primarily use TIF and PILOTS as the financing vehicles. Municipalities may designate publicly or privately owned lands that are abandoned or underperforming as redevelopment areas. This enables the municipality to spur redevelopment, including the condemnation of property, the use of tax exemptions, favorable bond financing and the creation of a [Revenue Allocation District](#) (RAD, New Jersey's version of tax increment financing). The district(s) may comprise up to 15 % of the total taxable property assessed in the community.

In these RADs, bonds or notes may be secured by a number of revenue sources including the property tax increment, as well as incremental revenue from PILOTS, parking taxes, and sales and use taxes retained by the municipality. Newark has the first RAD approved in the State of New Jersey. Under the [Redevelopment Area Bond Financing program](#), the New Jersey economic Development Authority (NJEDA) may issue long-term, low-cost bonds on behalf of municipalities seeking to fund infrastructure improvements and other pre-development costs.

²⁴ See Skillman District Corridor Tax Increment Financing District Plan: http://dallas-ecodev.org/SiteContent/66/documents/Incentives/TIFs/Skillman/skillman_plan.pdf

²⁵ See: <http://www.redevelopment.net/crafaq.aspx>

²⁶ See: http://clients.bbklaw.net/Documents/NEAMS/California_Redevelopment_Law_Handbook_2010.pdf

²⁷ See: <http://www.calepa.ca.gov/Brownfields/PolancoAct.htm>

The bonds are backed by Payments in Lieu of Taxes (PILOT) negotiated between the developer and municipality and pledged by the municipality as security for the bonds.²⁸

Redevelopment entities may also designate a district as an “[Area in Need of Redevelopment](#)”, which confers eminent domain authority.

An additional variation is the creation of a [Brownfields Development Area](#) (BDA) Program. As the name implies, the program is oriented to assisting localities that have a district or corridor where there is a concentration of brownfield sites. Under the BDA program, NJDEP works with selected communities affected by multiple brownfields to design and implement remediation and reuse plans. The NJDEP selects the BDA communities based on a yearly competitive application process. Designated BDAs qualify for up to \$5 million annually for five years from the state’s Hazardous Discharge Site Remediation Fund ([HDSRF](#)). An ownership interest in the property is not required. The grant provides 100% of eligible costs for site assessments and 75% of eligible costs for remediation. Note HDSRF is funded through a constitutionally-dedicated portion of the New Jersey Corporate Business Tax.

9.3 Area TIF and Maryland Policy

Because area TIFs have been infrequently employed in Maryland, a recommended follow-up item is a more detailed analysis of the state and local mechanisms outlined above to determine if there are opportunities for expanded use of area TIFs to implement area plans.

²⁸ Redevelopment Economics interviewed NJEDA staff about this program. The staff person clarified that the NJEDA only acts as a conduit to the bond market (they do not credit enhance); they also indicated the program has only been used for one project. They were re-evaluating and working on strengthening the approach.

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APPENDICES

Appendix 1. TIF Restrictions - Blight, Economic Distress, and Previously Developed Land

Wisconsin:

At least 50 percent of the land in the proposed district must meet one the following criteria:

- blighted;
- in need of rehabilitation or conservation work;
- suitable and zoned for industrial development; or
- suitable and zoned for mixed-use development.

Minnesota:

Cannot include farmland or previously undeveloped land

Three types of TIF districts:

- Redevelopment Districts (> 50 % substandard)
- Housing districts (meet affordable housing objectives)
- Economic Development Districts (Increase employment or the tax base)

Georgia:

- Inadequate or deteriorating development (or open areas within such development) that arrests the sound growth of a community;
- Substantially underutilized areas within an urbanized or developed area;
- Previously developed areas where the current condition is less desirable than redevelopment for new uses.

Missouri:

- Blighted areas
- “Conservation area” - within the boundaries of a redevelopment area - 50 percent of the structures are over 35 years
- Economic development districts;
- Redevelopment will not be solely used for development of commercial businesses which unfairly compete in the local economy; and will:
 - Retain industry;
 - Increase employment; or;
 - Preserve/enhance tax base

Appendix 2 - Michigan - Brownfield Redevelopment Authorities and Brownfields Tax Credit

TIF is the key element in Michigan's brownfield program. To encourage brownfield redevelopment, the Brownfield Redevelopment Financing Act (1996 PA 381, as amended) allows local units of government to establish a TIF district and capture the property tax increments to provide reimbursement for the costs of the eligible cleanup and site preparation activities. Local Brownfields Redevelopment Authorities (BRAs, the entities that govern the TIF plans) also may establish a Local Site Remediation Revolving Fund from surplus captured taxes in order to cover cleanup and site preparation at other designated properties in the BRA's jurisdiction.²⁹

Michigan's TIF-Complementary Financing Programs. Recognizing the mismatch between how the bond market works and how brownfields projects work, Michigan created three alternative financing vehicles, including Brownfields Redevelopment Grants (BRG) and two loan programs - Brownfields Redevelopment Loans (BRL - for cleanup) and Revitalization Revolving Loans (RRL - for demolition and site preparation). The two loan programs are designed to work with TIFs, as they feature flexible repayment terms, such as no payments due for the first five years and 2-percent interest rates. These terms are an ideal match with front-loaded, long-lead-time brownfields projects. Notably, the RRL funds demolition and site preparation because Michigan recognized that brownfields projects often involve financing gaps that are due to a whole set of site conditions, not just cleanup.³⁰

With Michigan's BRG grant program, its two TIF-oriented loan programs, and the SBT tax credit, Michigan has an impressive arsenal to close financing gaps on brownfields projects. However, all but the SBT are now endangered as funding through the Clean Michigan Initiative has been exhausted and renewal is uncertain.

The developer also may apply for a Brownfield Redevelopment Credit, which boosts the state's participation in a project. This credit can total 12 percent of any innocent party's development (not cleanup) costs, up to \$1 million.

Michigan – Results. There are 261 BRAs in Michigan. The state's brownfields incentives have provided \$120.7 million for 296 projects statewide since program inception in 1998. Although there is no comprehensive accounting of impacts, a typical example might be the City of Grand Haven, which is using BRA TIF financing for three projects:

- *Grand Landing:* The project is a \$70-million residential/mixed use redevelopment of a former tannery. A \$2-million cleanup has been financed through a \$1-million state grant and a \$1-million state loan to be paid back through BRA TIF;
- *Challenge Shop:* This \$11-million redevelopment for industrial/commercial/office use includes \$3.9 million in remediation/site preparation that the developer will recoup through the BRA TIF.

²⁹ See: http://www.michigan.gov/deq/0,1607,7-135-3311_4110_23246---,00.html

³⁰ See: http://www.michigan.gov/deq/0,1607,7-135-3311_4110_29262---,00.html

- *City-owned property at Jackson Street and Beacon Boulevard:* Plans call for a mixed-use development, projected at \$50 million in new private investment. The city is utilizing BRA tax capture to finance \$10.4 million in site/infrastructure work.

Brownfields Redevelopment Authorities and Land Banks. Michigan encourages land banks to use the BRA mechanism to help finance redevelopment of tax delinquent and other vacant city-owned properties. State law expanded the definition of a brownfields site to include any site owned by a land bank. This change enables communities to employ the BRA TIF mechanism to finance needed improvements to make land bank properties marketable. By involving multiple (even several hundred) properties in a single TIF, stronger properties can cross-collateralize weaker ones. This mechanism has been highly successful in Lansing (Ingham County Land Bank Authority)³¹ and Flint (Genesee County Land Bank Authority)³².

Note that several Michigan projects are also cited in the CDFA TIF Best Practice Guide.³³

³¹ See: <http://www.inghamlandbank.org/>

³² See: <http://www.thelandbank.org/>

³³ Council of Community Development Finance Agencies, Tax increment Finance Best Practice Reference Guide, 2007.